

## **FLORIDA PUBLIC SERVICE COMMISSION NOMINATING COUNCIL**

### **RULES OF PROCEDURE**

#### **I. Initial Procedure:**

Whenever a vacancy occurs on the Public Service Commission, the nominating council shall actively seek, receive and review applications submitted by persons who voluntarily request consideration and by those persons who otherwise consent to such consideration by the council. All persons under consideration for nomination to the Public Service Commission shall submit an application to the council on an approved form as determined by the council. The application shall include a signed waiver of confidentiality of all materials necessary for adequate investigation of each applicant.

#### **II. Initial Screening:**

For each vacancy to which nominations shall be made, the council shall establish a cut-off date for receipt of applications. No application shall be considered which arrives at the council after the cut-off date. The council shall vote to designate a list of "most qualified applicants" by a vote of no less than three members of the council. There shall be no limit upon the number of persons so designated, but all so designated shall appear from available information to possess all qualifications prescribed by law for Public Service Commission members, as well as those personal qualities and attributes of character, experience, temperament, professional competence and other personal characteristics essential to commission membership.

#### **III. Further Investigation; Interviews:**

Upon selection by the council of a list of applicants found upon preliminary evaluation to be "most qualified" and deserving of further consideration, the council may further investigate the fitness and qualifications of each "most qualified" applicant. In the course of such investigations, the council may utilize all sources reasonably available within the time permitted by law. In addition, the council shall invite the applicants deemed "most qualified" to appear before the council to respond to questions deemed pertinent to each person's fitness and qualifications to hold a seat on the Public Service Commission. Each such "most qualified" applicant shall be permitted to testify in his or her own behalf at the interview if he or she so desires.

Following an applicant's interview, the council may conduct further investigation, if necessary, of that applicant and may accept oral or written testimony or input from the public. The purpose of investigations and interviews is to determine if applicants possess all qualifications prescribed by law and those additional attributes described in Section VI hereof.

#### **IV. Voting:**

Five members shall constitute a quorum. No business shall be conducted by the council in the absence of a quorum.

All motions shall be decided by a majority of those members present, except for final selection of nominees, which shall be governed by the provisions in Section V.

#### **V. Final Selection of Nominees:**

Upon conclusion of all investigations and after those applicants designated as "most qualified" have been interviewed, the council shall select, by majority vote of its entire membership, the nominees to be submitted to the Governor. The council shall nominate not fewer than three persons for each vacancy on the Commission. The council shall nominate for gubernatorial appointment only persons who were initially designated as "most qualified" and whose personal interviews and investigations have satisfied the criteria set forth in Section VI. The names of the nominees shall be certified to the Governor in alphabetical order together with a copy of the investigative information relating to each such nominee.

#### **VI. Standards and Qualifications; Criteria:**

No person shall be nominated to the Governor for appointment unless the council finds that the nominee is fit for the appointment to the Public Service Commission after full and careful consideration by the council of the following criteria:

##### **A. Personal attributes**

1. Personal integrity
2. Standing in community
3. Sobriety
4. Moral Conduct
5. Ethics
6. Impartiality
7. Administrative ability
8. Independence
9. Temperament

B. Competency and experience

1. General health
2. Intelligence
3. Professional reputation
4. Knowledge, experience and competence in the industry, with particular emphasis on one or more of the following fields:
  - public affairs
  - law
  - economics
  - accounting
  - engineering
  - finance
  - natural resource conservation
  - energy
  - or another field substantially related to the duties & functions of the commission

**VII. Appointment of Members to Commission by the Council:**

A. Introduction

Section 350.031(6), *Florida Statutes*, provides that if the Governor has not made an appointment by December 1 to fill a vacancy for a term to begin the following January, then the council, by majority vote, shall appoint by December 31 one person from the applicants previously nominated to the Governor to fill the vacancy. In addition, that same statute provides that if the Governor has not made the appointment to fill a vacancy occurring for any reason other than an expiration of the term by the 60th day following receipt of the nominations of the council, the council by majority vote shall appoint within 30 days thereafter one person from the applicants previously nominated to the Governor to fill the vacancy. The following procedures apply in those instances when the Governor has not made a timely appointment.

B. Candidates for appointment

Only those nominees who were nominated by the council to the Governor pursuant to *Florida Statutes*, 350.031(5), shall be considered for appointment to the Public Service Commission by the council.

C. Voting procedures for appointment

1. At a duly convened meeting of the membership of the council, the chair shall poll in alphabetical order each member of the council who is present to cast a single vote for his or her choice to fill a particular vacancy. If there exists more than one vacancy to be filled on the Public Service Commission at the council meeting, each member present shall cast simultaneously one vote for his or her choice for each vacancy. The name of the chair shall be called last. After the members of the council have voted on the initial ballot, the chair shall tally, record, and announce the number of votes for all nominees receiving votes.
2. In the case of a single vacancy, the nominee who receives the highest number of votes shall be deemed appointed by the council to fill the vacancy on the Public Service Commission; provided however, that the aforesaid nominee has received such votes from a majority of the membership of the council.

For multiple vacancies:

- (a) A nominee who receives the highest number of votes shall be deemed appointed by the council to fill one of the vacancies on the Public Service Commission; provided however, that the aforesaid nominee has received such votes from a majority of the membership of the council.
- (b) If a nominee receiving the next highest number of votes has also received such votes from a majority of the council membership, that person shall be appointed to fill the second vacancy on the Public Service Commission.
- (c) In case of a tie between two of the nominees who receive the highest number of votes, provided that both nominees have received such votes from a majority of the council membership, both shall be appointed to fill the vacancies.
- (d) In the event there is a tie between more than two of the nominees who receive the highest number of votes, then the chair shall call for a run-off round of voting with respect to the aforesaid nominees and council members shall be polled in accordance with the procedures in 1. above.
- (e) In case one nominee receives the highest number of votes and two nominees receive the next highest but equal number of votes, provided all the aforesaid nominees have received such votes from a majority of the council membership, the nominee receiving the highest number of votes shall be appointed to fill one vacancy on the Public Service Commission, and the two remaining nominees with tie votes will be in a run-off round of voting in accordance with the procedures in 1. above to fill the other vacancy.

3. In the event the nominee or nominees with the highest number of votes in any round of voting does/do not receive votes from a majority of the council membership, the chair shall call for another round of voting according to the procedures in Section 1. above, but the eligible nominees for consideration shall be only the three (or more in the event of a tie) nominees with the highest number of votes. This process may be repeated as necessary until one or more nominee(s) receive(s) votes from a majority of the council membership and is/are thereby appointed to the Public Service Commission.

A run-off round of voting shall make null and void all previous votes cast for these nominees. The chair shall tally, record, and announce the total vote of the membership of the council for such nominees.

4. Notice of appointment

Upon the selection of an appointee, the chair shall send a notice to the appointee on behalf of the council in the following form:

NOTICE OF APPOINTMENT

This is to advise you that by virtue of the authority vested in the Florida Public Service Commission Nominating Council pursuant to Chapter 350, *Florida Statutes*, you have this day been appointed to the Florida Public Service Commission. This appointment shall be for a term of \_\_\_\_ years, commencing \_\_\_\_\_, 20\_\_\_\_, with all the powers and duties incident to such office.

The appointment is subject to your acceptance and subject to confirmation by the Senate of the State of Florida.

Before entering upon the duties of his or her office, each commissioner shall subscribe to an oath of office as provided in Section 350.05, *Florida Statutes*.

Dated \_\_\_\_\_, 20\_\_\_\_

Florida Public Service Commission  
Nominating Council

By \_\_\_\_\_  
Chair

### **VIII. Appointment of Council Members by the Council:**

Three members of the Council shall be appointed to the Council by a majority vote of members who were appointed by the President of the Florida Senate and the Speaker of the Florida House of Representatives. Vacancies on the Council shall be advertised in statewide news media or other statewide publications. Persons wishing to be considered for appointment shall submit an application on a form authorized by the Council before a cut-off date established by the chair. Applications that are not timely received in the Council's offices will not be considered.

### **IX. Records:**

The nominating council shall maintain continuous records of its proceedings, including written records of each council vote. Such records shall be maintained in the Office of Legislative Services. Such records shall be open to the public upon reasonable notice, as further provided in Florida's Public Records Law, which shall apply to the proceedings of the Public Service Commission Nominating Council.

### **X. Ethical Consideration:**

No council member should conduct himself in a manner which reflects discredit upon the selection process. Consideration of applicants by the council should be made impartially and objectively; however, a council member may suggest the names of prospective nominees. A council member should disclose to other council members all personal and business relationships with an applicant that may influence his or her decision and, if a substantial conflict of interest exists, the council member should disqualify himself or herself from voting on further consideration of that applicant.

All balloting by the council shall be by open ballot.

### **XI. Election of Chair; Meetings; Notice:**

At its first meeting, the council shall select one of its members to serve as chair and one of its members to serve as vice-chair, each for a two-year term. Subsequent meetings shall be at the call of the chair.

All meetings of the council shall be open to the public at all times.

Meetings of the council shall be held upon no less than seven days written notice to the President of the Senate, the Speaker of the House of Representatives, the Governor of Florida, and of each of the council members. The chair shall make a reasonable attempt to schedule meetings at locations and times to best accommodate the members. No meeting shall be held at such place or time that would conflict with the attendance by a member of the Florida Senate or Florida House of Representatives at a regularly scheduled legislative committee meeting of which any member of the Nominating Council shall be a member. Appointments for such interviews and agendas for the meetings shall be approved by the chair.

The meeting notice shall contain an agenda prescribing the business to come before the meeting and the order of business.

All persons appearing to speak before the council shall fill out an appearance card in a form substantially as used by standing committees of the Florida Senate and House of Representatives.

These rules may be amended or waived by a two-thirds vote of those council members present at any duly called meeting of the council.

All meetings and proceedings of the council shall be staffed by the Office of Legislative Services.

## **XII. Council in Deliberation:**

The following general rules shall prescribe the procedure for the council on deliberating any of its duties as prescribed herein:

### **A. Calling council to order:**

The chair or in the absence of the chair the vice-chair, shall call the council to order at the date and hour provided by the notice of the council meeting. On the appearance of a quorum the council shall proceed with the order of business. Any member of the council may question any existence of a quorum.

### **B. Chair's control:**

The chair or vice-chair shall preserve order in decorum and shall have general control of the council meeting room. If there is a disturbance or disorderly conduct in the council meeting room, the chair may take such actions as may be necessary to assure that orderly conduct is maintained.

### **C. Order of business:**

Items shall be considered in the order appearing in the notice required by these rules. An item may be considered out of its order by the council on a vote of two-thirds of those members present.

## **XIII. Chair's Authority; Appeals:**

The chair shall sign or approve all notices or reports required or permitted under these rules. The chair shall decide all questions of order. Any ruling by the chair is subject, however, to an appeal by any member. Any appeal made by such member questioning the ruling of the chair shall be made instant. Any ruling made by the chair, and questioned by appeal of the chair's ruling shall stand, unless reversed by a two-thirds vote of the members present.

#### **XIV. Members's Attendance, Voting, Proxy:**

No member of the council shall be allowed to vote by proxy. A majority of all the council members present shall agree by their votes on the disposition of any matter considered by the council.

The chair may excuse any council member for just cause and this excused absence shall be noted on the council's records.

#### **XV. Taking the Vote:**

The chair shall declare all votes and shall cause same to be entered on the records of the council.

Any vote may be recorded by a roll call of any members present, on the request of any council member. A council member may request to change his or her vote before the results of any roll call are announced. After the results have been announced, a council member with unanimous consent of those present may change his vote. If such changed vote alters the final action of the council, no change of vote shall be valid until the measure has been recalled to the council for further consideration. On request of any council member prior to consideration of other business, the chair shall order a verification of a vote.

#### **XVI. Casting Vote for Another:**

No council member shall cast a vote for another member.

#### **XVII. Explanation of Vote:**

Any council member may submit his or her explanation in writing on any vote and shall file it with the chair. The explanation shall be kept as part of the council record.

#### **XVIII. Motions; How Made, Withdrawn:**

Every motion may be made orally. On request of the chair, a council member shall submit his or her motion in writing. After a motion has been stated or read by the chair, it shall be deemed to be in possession of the council if seconded by a member, and shall be disposed of by vote of the council members present. The mover may withdraw a motion, except a motion to reconsider at any time before the same has been amended, or before a vote shall have commenced.



**XIX. Motions; Precedence:**

When a question is under debate, the chair shall receive no motion except:

- A. To rise
- B. To take a recess
- C. To reconsider
- D. To limit debate
- E. To postpone to a day certain which shall have precedence in the descending order given.